

LEGAL POINTS FOR AUTOMOBILE OWNER

Damages Not Recoverable for
Accidents Unless Negligence
of Motorist Is Proved.

By OUR LEGAL CORRESPONDENT

In preceding articles attention has been called to the rule of law that a person who is injured in an automobile accident will not be awarded damages upon mere proof of the accident and the resulting injuries, in a suit against the motorist. The essential additional fact that must be proved is that the accident was due to the failure of the motorist, or his chauffeur, to use the degree of care that ordinarily prudent men would have exercised under similar conditions. If this fact is proved, and it appears that the accident was due to such neglect, unmixed with concurrent neglect on the part of the injured person, the latter is entitled to damages. Not otherwise.

Very recent cases to which this principle has been applied are as follows: In a Wisconsin case a car was overturned, causing the death of a passenger. There was no evidence from which it could be definitely ascertained how the accident occurred. It did appear that when the car was examined after the accident the tire of the front wheel was deflated, and that just before the accident the car had been traveling at the rate of fifteen miles an hour. The court held that the accident might have resulted from the blowout of the tire, and that as there was no evidence pointing to negligence on the part of the driver, the owner of the car was not responsible in damages to the relatives of the decedent.

In a case decided in Iowa a pedestrian on the sidewalk was struck by an auto-

mobile. There was no evidence to show the cause which led the driver to permit the car to get on the sidewalk. Under this peculiar state of facts the court decided that proof of negligence was not necessary to justify the recovery of damages. As there can be no justification for the presence of an automobile on a sidewalk except under a very extraordinary state of facts the court ruled that mere proof of the fact stated was enough to create a legal inference of negligence against the motorist.

In an Ohio case it appeared that a prospective purchaser was examining a car. While he was standing in front of it and the demonstrator was manipulating the parts for the information of the former the car suddenly started forward, injuring the intending purchaser. There was no evidence to account for this unusual occurrence—that is to say, no evidence of negligence within the rule above stated. But the court held that this case, too, was an exception to the general rule. It applied the reasoning of the above mentioned Iowa case, and awarded damages for the injuries sustained by the prospective purchaser.

A ruling similar to those made in the last two cases was made in a recent Pennsylvania case. Here it appeared that a man and his wife hired a car, together with a chauffeur. The chauffeur got out of the car during the trip for the purpose of visiting a nearby store. When he had gone a few feet the car started off and ran into a ditch. The occupants were injured, and were awarded damages.

A recent Tennessee case holds that a county is not entitled to damages for injuries done to the public roads by reason of the annual weight of loads carried on the trucks of a particular person. The rule would be otherwise, the court said, if the damage resulted from reckless driving or improper management of the trucks.

The above is the rule where there is no special act of the Legislature. On this account the Legislatures in several States have passed special laws limiting

the weight of loads and the size of trucks. Attention has been called to some of this legislation in preceding articles.

Many decisions have settled the point that statutes regulating common carriers of freight and passengers apply to automobiles which are offered for public hire. Also that the transportation of passengers or freight by motor vehicle from a point in one State to a point in another is "interstate commerce" within the meaning of statutes of Congress governing such commerce. An apparent limitation on the principle of these decisions is to be found in a recent Federal case, which decides that it is not "interstate commerce" for a man to transport his own goods, in his own car, and for his own use (i. e., not for sale or for sale) from one State to another. Hence the Federal statutes which prohibit interstate commerce in certain articles do not apply to the transportation of such articles by motor vehicle under the special circumstances indicated.

Reports on Road Conditions

Now that the touring season is on in earnest it is imperative for most motorists to learn something about present road conditions before they start on long vacation motor rambles. Fortunately it can be said in all truthfulness that the main highways in New England and New York State were never better than they are to-day, and the amount of detouring to avoid road construction is surprisingly small considering the damage done to many roads by last winter's frosts and the subsequent heavy truck traffic.

As an inkling of what to expect in the matter of road conditions the touring bureau of the American Automobile Association at 501 Fifth avenue, has compiled the following summary, which it is hoped will answer many unspoken questions of interested motorists:

NEW YORK: Albany Post Road, a few rough spots but mostly good macadam. Albany to Buffalo, fine macadam throughout. New York to Albany

via west side, practically all good macadam. New York to Buffalo via Binghamton and Watkins, all good macadam. Binghamton to Erie via Southern Tier route, 95 per cent. macadam, balance fair dirt. Albany to Montreal via Lake George and Plattsburgh, all good macadam, no detours. Utica to Thousand Islands, good macadam. Syracuse, Mass., Adirondack, good macadam. Kingston to Utica via Catskills and Cooperstown, good macadam to Cooperstown, then follow several miles of rough dirt, bad in wet weather, to Richfield Springs; balance into Utica good macadam, running via Falgout Hollow and Mohawk.

NEW ENGLAND: Boston Post Road to New Haven, still rough in places, though the worst holes have been patched up; better to use good alternate via White Plains, Bedford, Ridgefield, Danbury and Waterbury to Hartford. New Haven to Greenfield, detour south am throughout. New York to Albany

town and then follow east side of the Connecticut River to Springfield. Springfield to Boston, mostly good macadam. Boston to Portland, follow shore road all the way and avoid the short cuts via the Newburyport turnpike, as well as the direct road through Hampton; shore road very good most of the way. Greenfield to White Mountains, best route at present is via Keene, Newport, Hanover and Woodsville; direct road through Brattleboro and Claremont rough in spots, though entirely passable. New York to Pittsfield, shortest and best route to the Berkshires is via Harlem Valley route through Brewster, Pawling, Millerton and Canaan; only one short detour between Stockbridge and Lenox. Berkshire to the White Mountains, best and most scenic route is via Mohawk Trail to Greenfield, and then via Sunapee Lake, Lake Winnepesaukee and Franconia Notch. Mostly good State gravel except a few miles of rather rough dirt between Newport, N. H., and Franklin.

Hose Protector.

Oil is the deadly enemy of rubber. It is a good plan to protect the inlet hose from the radiator to the pump from the effects of oil by giving it a coat of shellac. The shellac prevents the oil soaking through and getting at the rubber.

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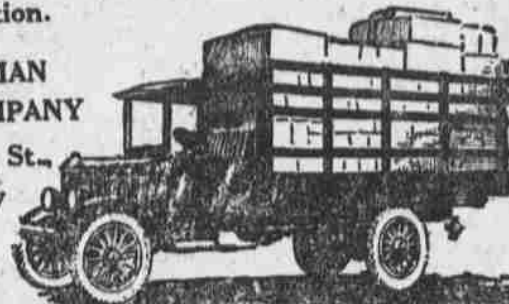
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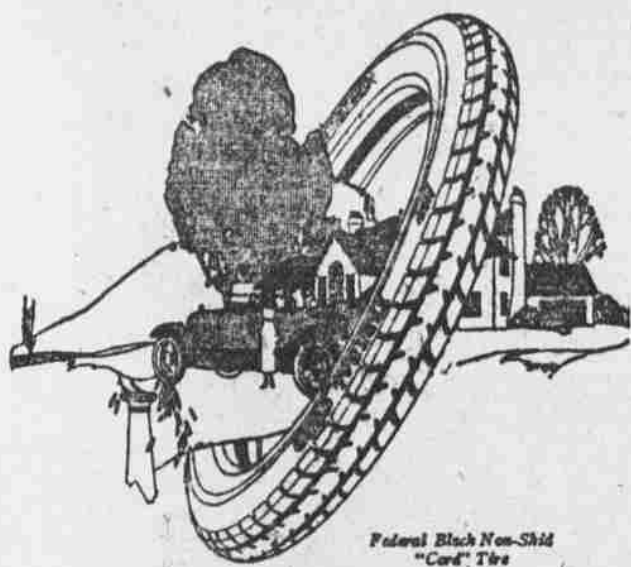
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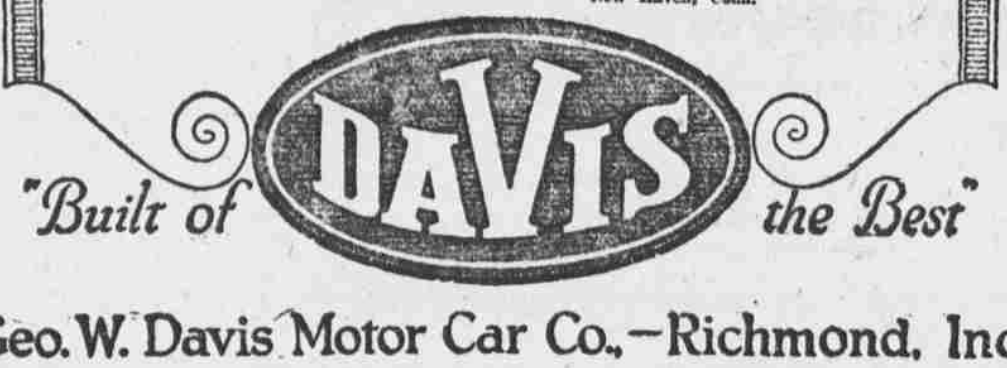


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